

**REMARKS**

Claims 1-3, 5-9, 11 and 12 were pending, with claims 4 and 10 having previously been canceled without prejudice or disclaimer. By this Amendment, claims 1-3, 5-9, 11 and 12 are canceled, without prejudice or disclaimer, and new claims 13-16 are added. Accordingly, claims 13-16 are now pending and presented for examination in the subject application, with claims 13 and 15 in independent form.

Applicants maintain that no new matter is presented by this amendment. Accordingly, Applicants respectfully request that this Amendment be entered.

**Rejection Under 35 U.S.C. §103(a)**

In Section 2 of the August 25, 2004 Office Action, claims 1 and 7 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over U.S. Patent No. 5,950,140 to Smith in view of U.S. Patent No. 6,606,748 to Tomioka.

The Examiner stated that with regard to collecting the measured data items, Smith teaches using remote sensors to collect position information. The Examiner further stated that with regard to generating measurement data for users according to contract conditions for each user, Smith teaches gathering measurements and generating a report according to an user defined set of data.

The Examiner acknowledged that Smith does not teach storing contract conditions for a plurality of users, hierarchically grouping in editing the measured data, storing the generated measurement data hierarchically grouped for a plurality of users in a database or transmitting in response to a data request the data according to contract conditions of the requester.

The Examiner stated that Tomioka teaches storing attribute data in an attribute information storage section of an information provider. The Examiner further stated Tomioka teaches dividing data into a number of levels and selecting appropriate types of data for types of user and giving priority to certain data for users according to characteristics of the user and therefore teaches hierarchically grouping data according to the user attributes or contract conditions. The Examiner also stated that Tomioka teaches storing the data in a database and grouping data for a plurality of users. The Examiner further stated that Tomioka teaches transmitting corresponding to contract conditions in response to a data request.

The Examiner alleged that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the land monitoring method, as taught by Smith, to include providing customized information grouped into different levels and types based on attributes and characteristics to users in response to a data requests, because then information would have been customized to more than one user and unneeded information would not have been transmitted.

By this Amendment, claims 1 and 7 have been canceled, without prejudice or disclaimer. Accordingly, the rejection is now moot with regard to claims 1 and 7.

Applicants maintain that the cited references do not render the claimed invention of new claims 13-16 unpatentable. The claimed invention is patentable over Smith and Tomioka for at least the following reasons.

The present application relates to generation of ground measurement data, based on various ground data items measured at

observation points by plural measuring instruments. According to the present application, a determination is made as to whether an operating state of each measuring instrument is normal or abnormal based on the measured data items obtained from the measuring instruments. In addition, measured data items satisfying requirements of the contract users are edited in accordance with the user contract information, and the edited data items are transmitted to the contract users

For example, independent claim 13 is directed to a measurement data generating method applied to a system for observing a ground based on various data items measured at observation points by a plurality of measuring instruments. The method includes (a) determining whether an operating state of each measuring instrument is normal or abnormal based on the measured data items obtained from the plurality of measuring instruments, (b) giving a re-measurement instruction to a measuring instrument whose operating state is determined to be abnormal, (c) storing the measured data items in a first database in sequence for each observation point, (d) storing user contract information for each contract user who requires the measured data items in a second database, the contract information in the second database containing information of required observation points, information of required data items, and information of required observation time, (e) editing measured data items satisfying requirements of the contract users by using the measured data items stored in the first database in accordance with the user contract information stored in the second database, and (f) transmitting the edited data items to the contract users.

Smith, as understood by Applicants, is directed to use of real time positioning systems for precise monitoring of land masses and a slope of a land mass. Smith discloses sensing change in position of a slope by GPS sensors and transmitting data obtained

from the GPS sensors to a base station via radio, thereby avoiding injury due to landslide.

However, Applicants do not find teaching or suggestion in Smith of determining whether an operating state of each measuring instrument is normal or abnormal based on the measured data items obtained from the plurality of measuring instruments, as recited in the claims, editing measured data items, and transmitting the edited data items to the contract users, as provided by the claimed invention of new claims 13-16.

Tomioka, as understood by Applicants, is directed to information providing techniques for providing television broadcast program schedules. Tomioka discloses an information providing apparatus 1 that supplies television program schedule data to each information receiving apparatus 2 in response to requests. In addition, Tomioka discloses sending respectively different types of data from the information providing apparatus 1 to the information receiving apparatus 2 for contract users and reconstructing the data in the information receiving apparatus 2, thereby decreasing transmitted data amount and shortening time for the transmission. Further, Tomioka discloses editing data in accordance with attribute information indicating user's requirements and the like. Additionally, Tomioka discloses respectively transmitting fixed data corresponding to a program fixed for a long time and variable data corresponding to a program variable each day.

However, Tomioka is not relevant to generation of ground measurement data, based on various ground data items measured at observation points by plural measuring instruments. Tomioka fails to teach or suggest any ground monitoring technique.

Therefore, Tomioka fails of course to disclose or suggest

determining whether an operating state of each measuring instrument is normal or abnormal based on the measured data items obtained from the plurality of measuring instruments, as provided by the claimed invention of new claims 13-16.

Although Tomioka may disclose transmitting data to the contract users in accordance with user's requirements, Tomioka does not disclose or suggest use of user contract information which is information for each contract user who requires the measured data items specific to "ground observation". That is, the user contract information includes information of required observation points, information of required data items, and information of required observation time, as recited in the claims. More specifically, the information of required observation time indicates at least one of time unit of hour time unit of morning/afternoon, time unit of half year/one year. Such information specific to "ground observation" is not found in Tomioka.

Therefore, even a combination of the teachings of Smith and Tomioka in the manner suggested by the Examiner fails to teach or suggest all of the features of the claimed invention.

In addition, obviousness analysis under 35 U.S.C. §103 requires a determination of the **relevant art** for the claimed invention. Further, obviousness under 35 U.S.C. §103 must be based on whether the claimed invention is rendered by the relevant art.

As previously pointed out, Tomioka is not relevant to ground measurement data. Therefore, Tomioka cannot contribute to an obviousness determination with regard to the claimed invention of this application. One skilled in the art confronted with the problems addressed by this application would not have looked to

the teachings of Tomioka. It simply would not have been obvious to combine the teachings of Smith and Tomioka in the manner suggested by the Examiner, unless the claims are impermissibly used as a roadmap for hindsight reconstruction of the claimed invention.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of the claims under 35 U.S.C. §103.

**Rejection Under 35 U.S.C. §103(a)**

In Section 3 of the August 25, 2004 Office Action, claims 2, 3, 5, 6, 8, 9, 11 and 12 were rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Smith in view of Tomioka, as applied to claims 1 and 7 above, and further in view of Japanese Patent Application No. JP 410112264A (Oishi).

The Examiner stated that Smith and Tomioka teach all of the limitations of claim 1 upon which claims 2, 3, 5 and 6 depend and claim 7 upon which claims 8, 9, 11 and 12 depend. The Examiner also stated that Smith teaches using a user defined set of data.

The Examiner acknowledged that Smith and Tomioka do not teach generating data on the condition that each measuring instrument does not malfunction, as set forth in claims 2 and 8, or determining whether at least one of the measured data items is abnormal and giving a re-measurement instruction in the case where at least one measured data item is abnormal, as set forth in claims 3, 5, 6, 9, 11 and 12.

The Examiner stated that Oishi teaches determining whether a measurement value is abnormal or erroneous and making a remeasurement when data is abnormal. The Examiner also stated

that Oishi teaches displaying data when it is judged to be correct.

The Examiner alleged that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the creep monitoring apparatus, as taught by Smith, to include checking to make sure measurements are normal and remeasuring when an abnormal measurement is detected, as taught by Oishi, because more accurate measurements would have been made and accurate measurements would not have been included in the data collection.

By this Amendment, claims 2, 3, 5, 6, 8, 9, 11 and 12 have been canceled, without prejudice or disclaimer. Accordingly, the rejection is now moot with regard to claims 2, 3, 5, 6, 8, 9, 11 and 12.

Applicants maintain that the cited references do not render the claimed invention of new claims 13-16 unpatentable. The claimed invention is patentable over the cited art for at least the following reasons.

As mentioned above, Smith and Tomioka fail to disclose or suggest determining whether an operating state of each measuring instrument is normal or abnormal based on the measured data items obtained from the plurality of measuring instruments, as recited in the claims, editing measured data items, and transmitting the edited data items to the contract users, as provided by the claimed invention of new claims 13-16.

Oishi does not cure the deficiencies of Smith and Tomioka.

Oishi, as understood by Applicants, is directed to a convergence inspecting device for a color monitor. The device automatically

finds an abnormality in received values and does not display the erroneously calculated results of the color drift quantity for protection.

However, Oishi is not relevant to generation of ground measurement data, based on various ground data items measured at observation points by plural measuring instruments. Tomioka fails to teach or suggest any monitoring techniques for ground observation.

Therefore, Oishi of course, like Smith and Tomioka, to disclose or suggest determining whether an operating state of each measuring instrument is normal or abnormal based on the measured data items obtained from the plurality of measuring instruments, as recited in the claims, editing measured data items, and transmitting the edited data items to the contract users, as provided by the claimed invention of new claims 13-16.

Therefore, even a combination of the teachings of Smith, Tomioka and Oishi in the manner suggested by the Examiner fails to teach or render obvious all features of the claimed invention of new claims 13-16.

In addition, Oishi, like Tomioka, is not relevant to ground measurement data. Therefore, Oishi, like Tomioka, cannot contribute to an obviousness determination with regard to the claimed invention of this application. One skilled in the art confronted with the problems addressed by this application would not have looked to the teachings of Oishi or Tomioka. It simply would not have been obvious to combine the teachings of Smith with those of Tomioka or Oishi in the manner suggested by the Examiner, unless the claims are impermissibly used as a roadmap for hindsight reconstruction of the claimed invention.



In view of the amendments to the claims and remarks hereinabove, Applicants maintain that claims 13-16 are now in condition for allowance. Accordingly, Applicants earnestly solicit the allowance of this application.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicants' undersigned attorneys invite the Examiner to telephone them at the telephone number provided below.

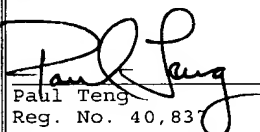
No fee, other than the \$1,020.00 three-month extension fee, is deemed necessary in connection with the filing of this Amendment. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

 February 25, 2005  
Paul Teng Date  
Reg. No. 40,837